

House Bill 217 (AS PASSED HOUSE AND SENATE)

By: Representatives Pruett of the 144th, Channell of the 116th, Carter of the 159th, Cooper of the 41st, Stephens of the 164th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, so as to authorize the use of influenza vaccine orders for a group of patients; to provide for influenza vaccine protocol agreements between physicians and pharmacists or nurses; to provide for definitions; to provide requirements for the content of influenza vaccine protocol agreements; to provide that a party to an influenza vaccine protocol agreement shall not delegate his or her authority; to provide for statutory construction; to provide for policies for handling used equipment; to limit the number of influenza vaccine protocol agreements in which a physician may enter at any one time; to prohibit certain entities from entering into influenza vaccine protocol agreements; to provide for rules and regulations; to provide for limited liability; to provide for applicability; to amend Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to regulation of hospitals and related institutions, so as to provide for vaccinations or other measures for health care workers in hospitals; to provide for statutory construction; to amend Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency management, so as to provide for emergency powers of the Governor in the event of a pandemic influenza emergency; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, is amended by adding a new Code section to read as follows:

"43-34-26.4.

(a) As used in this Code section, the term:

(1) 'Administer' means the provision of a unit dose of influenza vaccine by a pharmacist or nurse pursuant to an influenza vaccine order contained in an influenza vaccine protocol agreement with a physician.

(2) 'Adverse event' means an event that is a negative consequence of the administration of influenza vaccine by a pharmacist or nurse that results in an unintended reaction, injury, or illness, which may or may not have been preventable.

(3) 'Board' means the Composite State Board of Medical Examiners.

(4) 'Influenza vaccine' means a vaccine administered by injection that contains inactivated influenza viruses that is prepared for the applicable season and that is administered to produce or increase immunity to the influenza virus.

(5) 'Influenza vaccine order' means a prescription drug order, contained in an influenza vaccine protocol agreement, for influenza vaccine issued by a physician for a group of patients that meet a certain criteria and to be administered by a pharmacist or a nurse. An influenza vaccine order shall also mean a prescription drug order, contained in an influenza vaccine protocol agreement, for epinephrine issued by a physician for a group of patients that meet a certain criteria and to be administered by a pharmacist or a nurse only upon the occurrence of an actual or perceived anaphylactic adverse reaction to the administered influenza vaccine provided that the influenza vaccine protocol agreement sets forth the signs and symptoms that warrant the administration of epinephrine.

(6) 'Influenza vaccine protocol agreement' means a written document mutually agreed upon and signed by a physician and a pharmacist or by a physician and a nurse, by which document the physician prescribes influenza vaccine and epinephrine, if determined appropriate by the physician, by means of an influenza vaccine order for administration by a pharmacist or a nurse.

(7) 'Nurse' means a registered professional nurse as defined in paragraph (9) of Code Section 43-26-3. The term shall also mean a licensed practical nurse as defined in paragraph (5) of Code Section 43-26-32 who is regularly employed by a physician who actively engaged in the private practice of medicine.

(8) 'Pharmacist' means an individual licensed under Chapter 4 of Title 26 to engage in the practice of pharmacy in the State of Georgia.

(9) 'Pharmacy intern' means a pharmacy intern as defined in paragraph (19) of Code Section 26-4-5.

(10) 'Physician' means an individual licensed to practice medicine and surgery pursuant to this article and whose principal place of practice is located in this state.

(b) A physician engaged in the active practice of medicine may prescribe influenza vaccine for a group of patients via an influenza vaccine order contained in an influenza vaccine protocol agreement to be administered by a pharmacist, provided the physician is registered with the vaccination registry established by the Department of Human Resources pursuant to Code Section 31-12-3.1, commonly known as the Georgia Registry of Immunization Transactions and Services, the pharmacist is located within the county of the

physician's place of registration with the vaccination registry or a county contiguous thereto, and the pharmacist holds current certification in Basic Cardiac Life Support and has completed a course of training accredited by the Accreditation Council for Pharmacy Education or similar health authority or professional body approved by the Georgia State Board of Pharmacy. A physician who is a party to an influenza vaccine protocol agreement may also prescribe epinephrine via an influenza vaccine order contained in an influenza vaccine protocol agreement for administration by a pharmacist upon the occurrence of an actual or perceived anaphylactic adverse reaction to the administered influenza vaccine provided that the influenza vaccine protocol agreement sets forth the signs and symptoms that warrant the administration of epinephrine.

(c) A physician engaged in the active practice of medicine may prescribe influenza vaccine for a group of patients via an influenza vaccine order contained in an influenza vaccine protocol agreement to be administered by a nurse, provided the physician is registered the vaccination registry established by the Department of Human Resources pursuant to Code Section 31-12-3.1, commonly known as the Georgia Registry of Immunization Transactions and Services, the nurse is located within the county of the physician's place of registration with the vaccination registry or a county contiguous thereto, and the nurse holds current certification in Basic Cardiac Life Support. A physician who is a party to an influenza vaccine protocol agreement may also prescribe epinephrine via an influenza vaccine order contained in an influenza vaccine protocol agreement for administration by a nurse upon the occurrence of an actual or perceived anaphylactic adverse reaction to the administered influenza vaccine provided that the influenza vaccine protocol agreement sets forth the signs and symptoms that warrant the administration of epinephrine.

(d) An influenza vaccine protocol agreement between a physician and a pharmacist or a physician and a nurse pursuant to this Code section shall, without limitation:

(1) Contain the current names, addresses, telephone numbers, and professional license numbers of the physician and the pharmacist or nurse;

(2) Contain a provision for immediate consultation between the pharmacist or nurse and the physician. If the physician is not available, the physician for purposes of consultation may designate another physician who concurs with the terms of the influenza vaccine protocol agreement;

(3) Require the pharmacist or nurse to provide the influenza vaccine recipient with the appropriate and current Vaccine Information Statement (VIS) as provided by the federal Centers for Disease Control and Prevention;

(4) Require the pharmacist or nurse or his or her employer to retain documentation of each dose of influenza vaccine administered. Such documentation shall include, but not be limited to:

(A) The administering pharmacist's or nurse's name, address, telephone number, and professional license number;

(B) The name, dose, manufacturer, and lot number of the influenza vaccine;

(C) The vaccine recipient's name, address, date of birth, and telephone number;

(D) The date of administration and injection site;

(E) A signed and dated consent form by which the vaccine recipient acknowledges receipt of the VIS and consents to the administration of the influenza vaccine; and

(F) Any adverse events or complications that occur;

(5) Require the pharmacist or nurse to enter the patient's influenza vaccine information in the Georgia Registry of Immunization Transactions and Services within the registry's designated time frame, or as designated by the Department of Human Resources;

(6) Require, as a condition of administration of the influenza vaccine, the influenza vaccine recipient to remain under the observation of the administering pharmacist or nurse for a period of not less than 15 minutes immediately subsequent to the administration of the influenza vaccine;

(7) Contain procedures to follow up on the occurrence of an adverse event or complication including, if prescribed via an influenza vaccine order contained in an influenza vaccine protocol agreement, the administration of epinephrine;

(8) Provide for prioritization of influenza vaccine recipients in the event the supply of influenza vaccine is limited; and

(9) Be renewed and, if necessary, revised or updated biennially by the physician and the pharmacist or nurse. An influenza vaccine protocol agreement that is not renewed biennially shall expire.

(e) A pharmacist that is a party to an influenza vaccine protocol agreement pursuant to this Code section shall not delegate the administration of influenza vaccine to any individual other than a pharmacy intern under the direct supervision of the pharmacist whether or not any such other individual is under the supervision, direct or otherwise, of the pharmacist.

(f) A nurse that is a party to an influenza vaccine protocol agreement pursuant to this Code section shall not delegate the administration of influenza vaccine to any individual, whether or not any such individual is under the supervision, direct or otherwise, of the nurse; provided, however, notwithstanding the requirement of employment by a physician in paragraph (7) of subsection (a) of this Code section at a registered professional nurse that is a party to an influenza protocol agreement pursuant to this Code section may delegate the administration of influenza vaccine to a licensed practical nurse under the direct on-site supervision of the registered professional nurse.

(g) Notwithstanding any law to the contrary, a nurse acting pursuant to an influenza vaccine protocol agreement as provided in this Code section may possess and transport influenza vaccine and epinephrine.

(h) A pharmacist or nurse administering influenza vaccines pursuant to an influenza vaccine protocol agreement authorized by this Code section shall maintain policies and procedures for the handling and disposal of used or contaminated equipment and supplies.

(i) Nothing in this Code section shall be construed to authorize a physician to prescribe any vaccines or other drugs pursuant to an influenza vaccine protocol agreement or influenza vaccine order contained in an influenza vaccine protocol agreement other than influenza vaccines and epinephrine.

(j) A delegating physician may not enter into an influenza vaccine protocol agreement with more than ten pharmacists or nurses, or any combination thereof, at any one time; provided, however, and notwithstanding the geographic limitations provided in subsections (b) and (c) of this Code section, a delegating physician may enter into an influenza vaccine protocol agreement with more than ten pharmacists or nurses, or any combination thereof, at any one time so long as the pharmacists or nurses are in the same public health district as established pursuant to Code Section 31-3-15, and are employees or agents of the same corporate entity.

(k) It shall be unlawful for a physician who is employed by a pharmacist or nurse to enter into an influenza vaccine protocol agreement or otherwise delegate medical acts to such pharmacist or nurse. It shall be unlawful for a physician who is employed by a pharmacy to enter into an influenza vaccine protocol agreement or otherwise delegate medical acts to a pharmacist or nurse who is also employed by such pharmacy.

(l) The board shall have the authority to promulgate rules and regulations governing a physician who is a party to an influenza vaccine protocol agreement in order to carry out the intent and purposes of this Code section. Further, the board shall:

(1) Require that the influenza vaccine protocol agreement be filed by the physician with the board and be made available by the board for public inspection; and

(2) Promulgate by rule an approved standard protocol template that may be utilized as an influenza vaccine protocol agreement and make such template available on the board's website.

(m) Nothing in this Code section shall be construed to require a physician to enter into an influenza vaccine protocol agreement. A public or private managed care system, health plan, hospital, insurance company, or similar entity shall not require a physician, pharmacist, or nurse to enter into an influenza vaccine protocol agreement as a condition for participation in or reimbursement from such entity.

(n) No physician who complies with the provisions of this Code section shall be subject to criminal or civil liability or discipline for unprofessional conduct for:

(1) Entering into an influenza vaccine protocol agreement with a pharmacist or nurse;

(2) Issuing an influenza vaccine order contained in an influenza vaccine protocol agreement with a pharmacist or nurse; or

(3) The acts or omissions of a pharmacist or nurse pursuant to an influenza vaccine protocol agreement including the administration of influenza vaccine or epinephrine.

Nothing in this subsection shall be interpreted as altering liability of an employer for acts of his or her employees.

(o) This Code section shall not apply to any activities conducted within a hospital or within any other facility or entity owned, operated, or leased by a hospital.

(p) This Code section shall not be interpreted as limiting the authority of any authorized person to dispense or administer influenza vaccine or other medications.

(q) No influenza vaccine protocol agreement entered into pursuant to this Code section shall permit a pharmacist or nurse to administer an influenza vaccine to any child under the age of 13 without an individual prescription from a physician, and consent of the child's parent or legal guardian shall be a condition precedent to the administration of an influenza vaccine to a child under the age of 18."

SECTION 2.

Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to regulation of hospitals and related institutions, is amended by revising Code Section 31-7-18, relating to influenza vaccinations for discharged patients aged 65 and older, as follows:

"31-7-18.

(a) ~~Annually between October 1 through March 1, prior~~ Prior to discharging any inpatient who is 65 years of age or older, a hospital shall offer the inpatient vaccinations for the influenza virus and pneumococcal disease in accordance with the recommendations of the Centers for Disease Control and Prevention and any applicable rules and regulations of the department, unless contraindicated and contingent on availability of such vaccine, in accordance with any applicable rules and regulations of the department. A hospital may offer other patients such vaccinations in accordance with the recommendations of the Centers for Disease Control and Prevention and any applicable rules and regulations of the department. The vaccinations may be administered pursuant to a standing order that has been approved by the hospital's medical staff.

(b) A hospital may offer to its health care workers any vaccination, test, or prophylactic measure required or recommended by, and in accordance with, the recommendations of the

Centers for Disease Control and Prevention pursuant to standing orders approved by the hospital's medical staff to ensure the safety of employees, patients, visitors, and contractors.

(c) A hospital or health care provider acting in good faith and in accordance with generally accepted health care standards applicable to such hospital or health care provider shall not be subject to administrative, civil, or criminal liability or to discipline for unprofessional conduct for complying with the requirements of this Code section.

(d) Nothing in this Code section shall restrict or limit the use of standing orders in hospitals for any other lawful purpose."

SECTION 3.

Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency management, is amended in Code Section 38-3-3, relating to definitions, by adding a new paragraph to read as follows:

"(4.1) 'Pandemic influenza emergency' means the declaration by the World Health Organization of at least a Phase 5 Pandemic Alert for influenza occurring in the United States or the State of Georgia or the declaration by the Centers for Disease Control and Prevention of at least a Category 2 Pandemic Severity Index for influenza occurring in the United States or the State of Georgia."

SECTION 4.

Said chapter is further amended in Code Section 38-3-51, relating to emergency powers of the Governor, by revising subsection (a) as follows:

"(a) In the event of actual or impending emergency or disaster of natural or human origin, or pandemic influenza emergency, or impending or actual enemy attack, or a public health emergency, within or affecting this state or against the United States, the Governor may declare that a state of emergency or disaster exists. As a condition precedent to declaring that a state of emergency or disaster exists as a result of a public health emergency, the Governor shall issue a call for a special session of the General Assembly pursuant to Article V, Section II, Paragraph VII of the Constitution of Georgia, which session shall convene at 8:00 A.M. on the second day following the date of such declaration for the purpose of concurring with or terminating the public health emergency. The state of emergency or disaster shall continue until the Governor finds that the threat or danger has passed or the emergency or disaster has been dealt with, to the extent that emergency or disaster conditions no longer exist, and terminates the state of emergency or disaster. No state of emergency or disaster may continue for longer than 30 days unless renewed by the Governor. The General Assembly by concurrent resolution may terminate a state of

241 emergency or disaster at any time. Thereupon, the Governor shall by appropriate action end
242 the state of emergency or disaster."

243 **SECTION 5.**

244 This Act shall become effective upon its approval by the Governor or upon its becoming law
245 without such approval.

246 **SECTION 6.**

247 All laws and parts of laws in conflict with this Act are repealed.